



**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

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**BULLETIN 2020-08**

**To:** All Insurance Carriers, Surplus Lines Carriers, and Risk Retention Groups Offering Medical Malpractice Coverage in the Commonwealth

**From:** Gary D. Anderson, Commissioner of Insurance

**Date:** March 27, 2020

**Re:** Flexibility in the Issuance and Administration of Medical Malpractice Insurance during COVID-19 (Coronavirus) Public Health Crisis

The Division of Insurance ("Division") issues this Bulletin 2020-08 to provide information to all Insurance Carriers, Surplus Lines Carriers, and Risk Retention Groups offering medical malpractice coverage in the Commonwealth ("Medical Malpractice Carriers") about the Division's expectations regarding steps Medical Malpractice Carriers are to take to help address concerns about medical professional liability/medical malpractice coverage during the COVID-19 (also known as Coronavirus) public health crisis. For the reasons set out below, we ask that all Medical Malpractice Carriers review their existing coverage and/or coverage forms to ensure that such coverage provides flexibility where needed and/or to file or add endorsements to their existing policies to ensure that existing coverage will apply to health care professionals who are acting within the scope of their professional license when they respond to the COVID-19 public health crisis, whether within Massachusetts or in another state.

**The Coronavirus Risk**

The public health and societal impact resulting from the spread of COVID-19 is dramatically impacting the Commonwealth. It is essential that government and business leaders take all appropriate steps to safeguard the general public and well-being of the Commonwealth's citizens. Insurance coverage plays a critical role in the stability of the Commonwealth's economy and the protection of its residents. COVID-19 imposes unique risks to our insurance market that Massachusetts has not faced for at least a generation.

The escalating COVID-19 public health emergency will produce an extraordinary demand on the Commonwealth's health care system that will require a degree of flexibility and responsiveness in the staffing of medical facilities that regular practices cannot accommodate. Governor Baker's Administration has issued directives and orders over the past weeks to address this demand, help prevent the spread of disease and improve access to treatment within our health care delivery system. All of our efforts are devoted to swiftly getting our systems ready and eliminating administrative barriers so that health care professionals are ready, trained, and able to address this unprecedented public health crisis. For example, Governor Baker issued an Order Expanding Access to Physician Services on March 17, 2020, directing the Board of Registration in Medicine to adopt certain policies and procedures for the licensure of physicians, including related to emergency licenses and limited licenses. Governor Baker also issued an Order Extending the Registrations of Certain Licensed Health Care Professionals on March 17, 2020, extending the registrations of registered nurses, licensed practical nurses, pharmacists and physician assistants, and authorizing the practice of telemedicine across state lines in certain instances. The Department of Public Health (DPH) issued an Order Implementing Emergency Credentialing and Licensed Staff Transfer Procedures for Medical Facilities in the Commonwealth on March 17, 2020, as well as an Order Regarding the Flexible Reassignment of Physician Assistants on March 18, 2020. We likewise are evaluating ways that these health care professionals can be deployed where most needed, including where necessary outside the Commonwealth of Massachusetts.

#### **Medical Malpractice Carriers' Flexibility with Coverage**

Medical Malpractice Carriers play an essential role in our public health care system. They provide coverage to medical professionals when lawsuits are filed alleging that an act by the medical professional may have led to a patient's loss. Such coverage is necessary so that medical professionals can properly practice in accordance with the responsibilities of their profession and be secure that their Medical Malpractice Carrier will defend them in the case of a patient's lawsuit.

During this COVID-19 crisis, as we are looking for all ways to enable health care professionals' availability to provide treatment, we seek to allay concerns about there being adequate medical malpractice coverage in place to protect health care professionals from medical malpractice liability. To that end, we ask that all Medical Malpractice Carriers review their existing coverage and/or coverage forms to ensure that such coverage provides flexibility where needed and/or to file or add endorsements to their existing policies to ensure that existing coverage will apply to health care professionals who are acting within the scope of their professional license when they respond to the COVID-19 public health crisis, whether within Massachusetts or in another state.

If you have any questions about this Bulletin, please contact Kevin Beagan, Deputy Commissioner for the Health Care Access Bureau, at (617) 521-7323.